

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Norman E. & Brenda Dean Cookston )  
Dist. 6, Map 78, Control Map 78, Parcel 25.02, ) Sequatchie County  
S.I. 000 )  
Residential Property )  
Tax Year 2005 )

### INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$38,600	\$ -0-	\$38,600	\$9,650

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on December 19, 2005 in Dunlap, Tennessee. In attendance at the hearing were Norman Cookston, the appellant, Sequatchie County Property Assessor, James Condra, and Glenn Bickford and Danny Taylor of the Division of Property Assessments.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 6.3 acre tract located on Cookston Cave Road in Whitwell, Tennessee.

The taxpayer contended that subject property should be valued at \$21,400. In support of this position, the taxpayer argued that the 2005 countywide reappraisal program caused the appraisal of subject property to increase excessively.<sup>1</sup> In addition, the taxpayer asserted that the current appraisal of \$6,127 per acre does not achieve equalization given the assessor's appraisals of nearby parcels for anywhere from \$4,236-\$5,449 per acre. Finally, the taxpayer testified that the recent sale of a tract for \$3,000 per acre supports a reduction in value.

The assessor contended that subject property should be valued at \$38,000. In support of this position, five comparable sales were introduced into evidence. The assessor maintained that the comparable sales support a value of \$6,036 per acre or \$38,000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

<sup>1</sup> Subject property had previously been appraised at \$21,400.



After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$38,000 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Sequatchie County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2005 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the 'Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and equalized by application of the appropriate appraisal ratio . . ." *Id.* at 1.

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

In contending the entire property should be appraised at no more than \$60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this



approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more underappraised than average does not entitle him to similar treatment. Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not adequately indicated how the properties compare to his own in all relevant respects. . . .

Final Decision and Order at 2. See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were underappraised . . ." Final Decision and Order at 3.

The administrative judge finds that the sale referred to by the taxpayer has no probative value. Putting aside the fact that virtually no evidence was introduced about the sale, the administrative judge finds it contained 21 acres and is simply not comparable in size.<sup>2</sup>

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$38,000	\$ -0-	\$38,000	\$9,500

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of

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<sup>2</sup> It also appears from the testimony that the 21 acre comparable was improved with a residence that was separately conveyed.

the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 12th day of January, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Norman E. & Brenda Dean Cookston  
James Condra, Assessor of Property